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Congress of the United States
House of Representatives
COMMITTEE ON WAYS AND MEANS

WASHINGTON, DC 20515

SUBCOMMITTEE ON SOCIAL SECURITY

February 9, 2004

**HR 743 Ensures All Workers, Including Public Employees, Are
Treated Equally**

Dear Colleague:

Even though H.R. 743--the *Social Security Protection Act of 2003*-- provides long-overdue protections for the most vulnerable Social Security recipients; gives the Social Security Administration vital tools to fight waste, fraud, and abuse; stops benefits to fugitive felons; is bipartisan; and is supported by AARP and disability advocates, certain Members allege the bill discriminates against public servants.

The exact opposite is true. H.R. 743 contains a provision that prevents certain teachers in Texas from taking unfair advantage of a loophole in the law in order to obtain Social Security spouse and widow benefits that are much higher than those received by any other identical working spouse in America. In 2002, the General Accounting Office evaluated use of this loophole and determined it creates the potential for abuse of the Social Security program and recommended Congress take action to shut it down. A Yes vote only affects teachers in Texas and a handful in Georgia-- the GAO found nobody else using the loophole. A yes vote is a vote to treat all public employees similarly, NOT a vote against reducing or repealing the Government Pension Offset (GPO) or Windfall Elimination Provision (WEP).

Many Members of Congress have heard from teachers, firefighters, police officers, and other public employees about reductions in their Social Security benefits due to the GPO and the WEP. We all deeply appreciate their service and sacrifices, and want to ensure they receive fair treatment and benefits under Social Security. Their personal stories are heartfelt and compelling. However, much misinformation exists about these provisions.

In order to set the record straight, I have attached fact sheets explaining these provisions, as well as why we need to fix the GPO loophole. They show that the House was right in overwhelmingly passing H.R. 743 (396-28) on April 2, 2003, as was the Senate in passing the bill, as amended, by unanimous consent on December 9, 2003. In addition to protecting Social Security programs and beneficiaries, the bill saves about \$800 million in precious program resources over the next 10 years-- dollars that come straight from the paychecks of hardworking Americans.

This week, the House will consider the Senate amendment to H.R. 743. Social Security recipients and our nation's workers need and deserve the protections this bill provides. Do not let misinformation campaigns driven by special interests prevail. Vote yes to send H.R. 743 to the President to be signed into law.

Sincerely,

/S
E. CLAY SHAW, JR.
Chairman

Government Pension Offset (GPO)

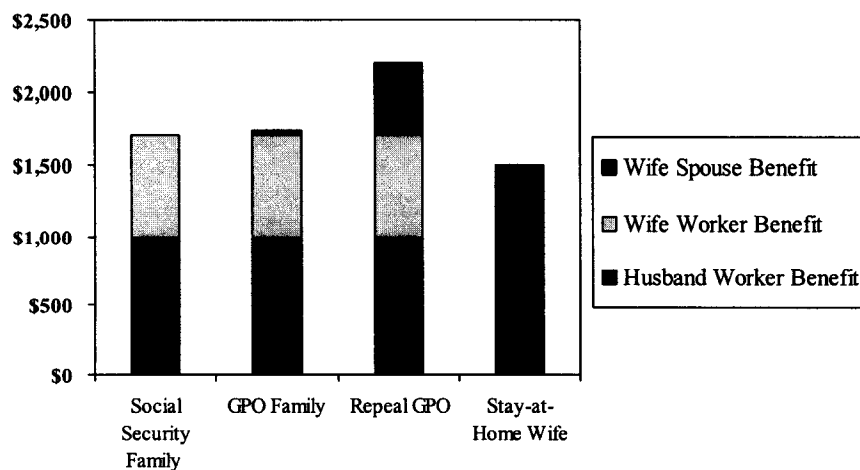
Does the GPO Unfairly Target Public Employees for Benefit Cuts?

- No. The GPO ensures public employees are treated like other workers when receiving spouse and widow benefits from Social Security. The GPO is an equalizer, not a penalizer.
- Spouse/widow benefits were intended for those with little or no pension of their own. So when a spouse works, her Social Security worker benefit reduces her spouse/widow benefit \$1 for \$1.
- About 1/4 of government employees pay into a government pension that substitutes for Social Security. To treat them similarly to the 96 percent of American workers who pay Social Security taxes, the GPO reduces the spouse/widow benefit by \$2 for every \$3 of the government pension. In effect, 2/3 of the government pension is treated as substituting for Social Security and reduces the spouse/widow benefit \$1 for \$1 (just like every other working spouse), and 1/3 of the pension is treated like a private employer pension.

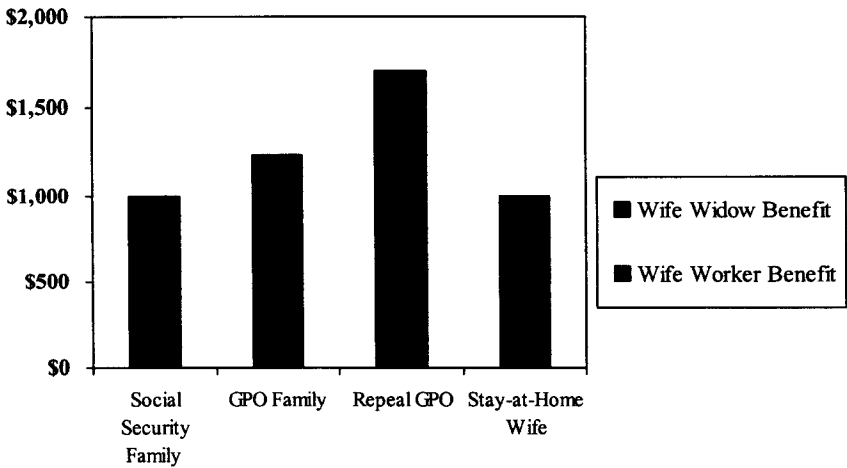
Example of How the GPO Works

Consider two couples that earned identical retirement benefits--the husband receives \$1,000 per month, and the wife receives \$700 per month. Both members of the first couple paid Social Security taxes. Only the husband in the second couple paid Social Security taxes--the wife paid into a government pension *in lieu of* Social Security. Even after the GPO, the public employee receives higher benefits than the working spouse who paid Social Security taxes. Repealing the GPO would give public employees an unfair advantage over working spouses who pay into Social Security.

Family Affected by GPO Receives Higher Spouse Benefits While Both Are Living



Family Affected by GPO Receives Higher Widow Benefits After Husband Dies



The Government Pension Offset Loophole

Under current law, a public employee is exempt from the GPO if his or her government job was subject to Social Security taxes and covered under the government pension system on the last day of work. After an investigation generated from a report received through their fraud hotline, in August 2002, the General Accounting Office (GAO) found almost 4,800 teachers in Texas had switched or planned to switch to a clerical or janitorial position covered under Social Security on their last day of employment in order to avoid the GPO.

The Teacher Retirement System of Texas is uniquely designed to take advantage of the loophole, since it covers both jobs that are and are not subject to Social Security taxes, has employers who are willing to help workers switch jobs for one day, and has low-skill jobs the teachers can easily fill for a day to utilize the loophole. While the GAO identified a few other public employee pension plans that are similarly designed, the GAO only found a few actual cases of GPO loophole exploitation in Georgia.

The GAO found some Texas school districts even advertised and charged a fee (\$100-\$500) for teachers to take advantage of this GPO loophole. One school district in Texas collected over \$280,000 by charging fees to teachers who wanted to work in their district for a day to take advantage of the loophole.

- **The result** - teachers who paid into Social Security for one day (about \$3) will receive nearly \$100,000 in lifetime spouse/widow benefits.
- **In contrast** - teachers who paid into Social Security their whole career will receive little or no spouse/widow benefit.
- **Costs** - GAO reports long-term benefit payments to those who have already used the loophole could cost Social Security \$450 million and would increase as use of the loophole grows. According to CBO, closing the loophole would save Social Security more than \$100 million over the next 10 years.
- **This is an abuse of the Social Security program, plain and simple.** It's unfair to **other teachers in Texas and public servants** elsewhere who can't use the loophole and to **workers and beneficiaries** who are seeing precious resources plundered from the program. That's why the **GAO recommended** this loophole be closed.
- H.R. 743 closes this loophole, **just like** the President's 2004 and 2005 budget request, and **just like** last year's version of this bill that passed the House overwhelmingly and passed the Senate by **unanimous consent**.
- The "last day" rule is changed to a longer minimum time period, 5 years, just like Federal workers who switched from the Civil Service Retirement System to the Federal Employees Retirement System.

Windfall Elimination Provision (WEP)

Does the WEP Unfairly Target Public Employees for Benefit Cuts?

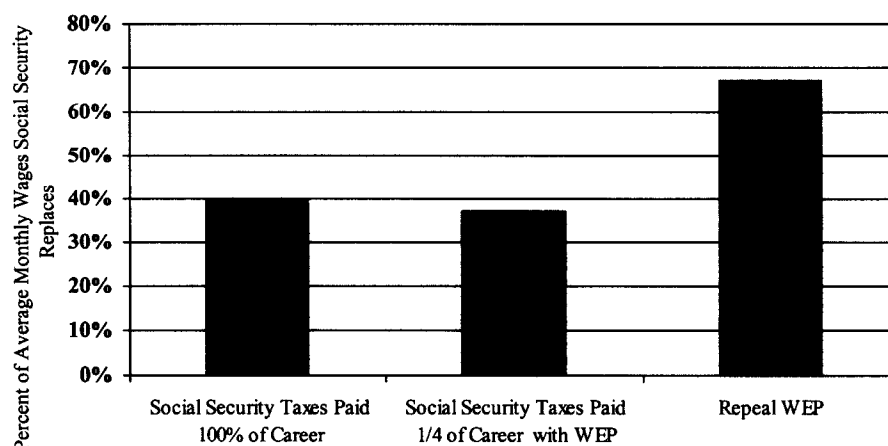
No. The WEP was created to equalize treatment of public employees who pay into a government pension that substitutes for Social Security with that of the 96 percent of Americans who pay Social Security taxes.

- Social Security's benefit formula is designed to help keep people out of poverty by replacing more of low-wage workers' pre-retirement wages. For example, low-wage workers have about 56 percent of their average career wages replaced, while medium and high-wage workers have 41 percent and 35 percent of their wages replaced respectively.
- If a worker pays into a government pension in lieu of Social Security, then Social Security records "zero" earnings for that job. Public employees who have many years of "zero" earnings recorded for their government jobs appear to have low average wages when that was not the case. Without the WEP, they would have more of their wages replaced under Social Security (an inadvertent "windfall") than workers who paid Social Security taxes on all their jobs.

Example of How the WEP Works

Consider two workers with average monthly wages over their careers of \$4,000. The first worker paid Social Security taxes his entire career. The second paid Social Security taxes for $\frac{1}{4}$ of his career, and paid into a government pension for the remainder. The Social Security benefit formula records average monthly wages of \$4,000 per month for the first worker, and \$1,000 per month for the second worker. As the chart below shows, the WEP helps equalize the amount of wages that benefits replace.

Wage Replacement Under Social Security Virtually Identical for Public Employee



Proposals for Addressing the WEP and GPO

- Options for addressing the WEP range from income-testing application of the WEP (H.R. 2011) to complete elimination of the provision (H.R. 594), and cost from \$16 to \$26 billion over 10 years.
- Options for addressing the GPO range from income-testing the GPO (H.R. 887), to reducing the offset amount (H.R. 75), to complete elimination of the provision (H.R. 594), and cost from about \$8 to \$31 billion over 10 years.
- Income-testing these provisions is not in keeping with the principle of Social Security as an earned right, not a welfare benefit. Complete elimination would reintroduce the inequities they were intended to address.

Social Security Subcommittee Hearing on the WEP and GPO

- The Subcommittee held a hearing May 1, 2003 on the WEP and GPO. Hearing testimony can be found at:
<http://waysandmeans.house.gov/hearings.asp?formmode=detail&hearing=61&comm=4>
- Though organizations representing workers affected by the GPO and WEP urged reform or repeal of the provisions because they believe it is unfair, the Social Security Administration testified that; 1) workers who paid into a state or local public pension instead of Social Security and are subject to the GPO actually receive higher spouse/widow benefits than equally situated workers who paid into Social Security, and 2) the WEP's purpose is to remove an unintended advantage for persons with substantial pensions from government work not subject to Social Security taxes. The provision includes safeguards against excessive reductions for workers with long careers covered by Social Security or who have only small government pensions.
- The Subcommittee will continue to examine proposals to modify the GPO and WEP and improve the fairness of the Social Security system for all workers.